IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH AT HYDERABAD

THE HON'BLE SRI JUSTICE GOPALAKRISHNA TAMADA

Writ Petition No.18845 of 2002

Dated: 01-10-2007

Between:

B. Shafiulla, s/o P. Basheer Sab,
r/o 18-6-1, Azadnagar, Hindupur,
Ananthapur District.

... Petitioner

and

1. The State Transport Appellate Tribunal, Hyderabad, rep. by its Presiding Officer, Manoranjan Complex, M.J. Road, Hyderabad and 3 others.

... Respondents

ORDER:

Questioning the order dated 09-08-2002 passed in R.P.No.96/2000 by the first respondent – State Transport Appellate Tribunal, Hyderabad, (for short, 'STAT') the present writ petition has been filed.

2. Facts, in brief, are: The second respondent – State Transport Authority (for short, 'STA') having considered all the objections of the third respondent – Andhra Pradesh State Road Transport Corporation

(for short, 'APSRTC'), granted a pucca permit in favour of the petitioner, by order dated 22-07-2000 in R.No.928/B1/98, on the enclave route from Hindupur Railway Station to Mydugolam, via Laxmipuram, Srikanthapuram, Pulamathi, Manepalli, Srivaram Kanchisamudram and Nageragera. In pursuance of the said order, the Joint Transport Commissioner and Secretary, STA, Andhra Pradesh, Hyderabad vide proceedings dated 10-10-2000 in R.No.928/B1/2000 issued pucca stage carriage permit in favour of the petitioner, for a period of five years commencing from 10-10-2000 to 09-10-2005. The total distance of the route is 25.8 K.Ms, which consists of 22.0 K.Ms. in the State of Andhra Pradesh and 3.8 K.Ms. in the State of Karnataka. The starting point, Hindupur and the terminal point, Mydugolam situate in the State of Andhra Pradesh.

3. According to the petitioner, as per the second proviso to sub-section (1) of Section 88 of the Motor Vehicles Act, 1988 (for short, 'the Act'), the route in question is exempted from countersignature of Karnataka STA. Further, as per sub-section (6) of Section 88 of the Act, reciprocal agreements between the States should be published so far as it relates to countersignature of permits. It is stated that the petitioner is plying the vehicle to the satisfaction of the travelling public and the Transport Authority by paying tax as per the classification of the vehicle. Be that as it may, APSRTC filed R.P.No.96/2000 before the STAT questioning the grant of permit alleging that the route in question is not covered by the interstate agreement. The STAT allowed the said revision petition by order, dated 09-08-2002. Assailing the said order, the present writ petition has been filed.

4. Heard Mr. John Rajendra Prasad, learned counsel for petitioner, Mr. K. Srinivasa Rao, learned Standing Counsel for APSRTC and Mr. S.A. Razzaq, learned counsel for the fourth respondent.

5. Having heard the learned counsel, this Court has given a serious consideration about the point involved in this matter. There is no dispute with regard to the provisions of law i.e. the provisos to sub-

section (1) of Section 88 of the Act, which deals as under---

> **88. Validation of permits for use outside region in which granted: -**
> (1) Except as may be otherwise prescribed, a permit granted by the Regional Transport Authority of any one region shall not be valid in any other region, unless the permit has been countersigned by the Regional Transport Authority of that other region, and a permit granted in any one State shall not be valid in any other State unless countersigned by the State Transport Authority of that other State or by the Regional Transport Authority concerned:
> Provided that a goods carriage permit, granted by the Regional Transport Authority of any one region, for any area in any other region or regions within the same State shall be valid in that area without the countersignature of the Regional Transport Authority of the other region or of each of the other regions concerned.
>
> Provided further that where both the starting point and the terminal point of a route are situate within the same State, but part of such route lies in any other State and the length of such part does not exceed sixteen kilometers, the permit shall be valid in the other State in respect of that part of the route which is in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State:
>
> Provided also that—
>
> (a) where a motor vehicle covered by a permit granted in one State is to be used for the purposes of defence in any other State, such vehicle shall display a certificate, in such form, and issued by such Authority, as the Central Government may, by notification in the Official Gazette, specify, to the effect that the vehicle shall be used for the period specified therein exclusively for the purposes of defence; and
>
> (b) any such permit shall be valid in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State."

6. From the said provision of law it is clear that when it is an engraved route the countersignature obtained by the State Transport Authority or the Regional Transport Authority of the other States is not required. Similarly sub-sections (5) & (6) of Section 88 of the Act also rather very clear and there is no ambiguity at all.

7. It is the contention of the learned counsel for the petitioner that the present route normally falls within the language as provided for under the proviso to sub-section (1) of Section 88 of the Act and as such the countersignature by the other State Transport Authority is not required.

I am wholly in agreement with the said contention, but there is no distinction i.e. obtaining permit or agreement from the other State as the route is engraved within some parts of the said State. So from the provisions of law coupled with the decision in **K. VENKAMMA v. GOVT. OF A.P.**[1], it shall be construed that wherever there is engravement and the routes of the other States intercept it shall be construed as an interstate and thus permit or agreement from the other State is required.

In this context, it may be relevant to refer to the judgment of ***Venkamma's case (1 supra)***, wherein Their Lordships of the Supreme Court having posed a question to themselves i.e. can a route whose termini lie within the same State but which traverses in its course one or more States being designated as inter-State routes. Having discussed the entire matter in detail and also referring various judgments including ***Khazan Singh v. State of U.P. – AIR 1974 SC 669*** Their Lordships have observed as follows---

> "An inter-State route is one of which one of the termini falls in one State and the other in another State."
> Undoubtedly, where the termini fall in different States the route is inter-State. But that does not exclude other categories of inter-State routes such as where it crosses a State other than the originating State although' gets back into it later. If the territory of more than one State is covered, even if both the termini eventually fall within the same State, the route is inter, but not intra-State."

8. In **ASHWANI KUMAR v. REGIONAL TRANSPORT AUTHORITY**[2], the Supreme Court after recording the submissions and discussions interpreted that when once it is treated as an interstate route it requires agreement/permit of the other State and Their Lordships have clearly held at paragraph 7 of the judgment in the following lines.

> "Accepting the submissions made on behalf of the

> appellants would result in frustration of the objective sought to be achieved by the Act. The interpretation put by the High Court is rational, legal and proper. In the absence of the existence of an inter-State route, the authorities under the Act were not justified in granting the permits to the appellants.
>
> The existence of permit depends upon the reciprocal agreements between the States covered by the route, which admittedly, did not exist in the instant case. The orders of the authority granting permit in favour of the appellants were thus without jurisdiction. "

9. The said finding clearly envisages that the persons like the petitioner, who is having the permit to ply the buses from one part of the State to the other parts of the same State but some routes of the other States intercepts or engraves, it shall be construed only as interstate routes and thus the permit holder like the petitioner shall obtain the agreement from the other State also. The counter signature is altogether a different. Simply because the buses or the vehicle plies through the engraved routes of the other States, it cannot be said that the countersignature of the Road Transport Authorities by the other States is required. The requirement of countersignature is entirely different from that of obtaining of agreement. The first proviso to Section 88(1) of the Act deals with only countersignature and it has nothing to do with the permit or agreement by the other State. Thus, this Court is of the view that the lower authority i.e. the STAT is justified in saying that the permit granted by the STA in favour of the petitioner is not correct, in view of the fact that the petitioner did not enter into agreement and obtain permit from the State of Karnataka.

10. Accordingly, the writ petition is dismissed. No costs.

JUSTICE GOPALAKRISHNA TAMADA

Dt.01-10-2007
Note: L.R. copy to be marked.
B/o
GLV

[1] AIR 1977 SUPREME COURT 1170
[2] (1999) 8 Supreme Court Cases 364